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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA - FRESNO

WAYNE BILLINGSLEY, WAVA BILLINGSLEY) CASE NO. CIV F 02 5853 REC DLB
AND CALIFORNIA AGRI SPRAYERS, INC.,)
A California Corporation) JOINT STIPULATION TO VACATE
) TRIAL DATE
)
Plaintiffs,) [Local Rule 78-230(g); 83-143]
)
vs.)
)
LOVELAND INDUSTRIES, INC. d.b.a.)
UAP WEST, a Colorado Corporation and)
DOES 1 through 50, inclusive)
)
Defendant(s))

COME NOW PLAINTIFFS WAYNE BILLINGSLEY, WAVA BILLINGSLEY AND CALIFORNIA AGRI SPRAYERS, INC. BY AND THROUGH THEIR ATTORNEY OF RECORD GERALD M. LEVERETT AND DEFENDANTS LOVELAND INDUSTRIES, INC. D.B.A. UAP WEST BY AND THROUGH THEIR ATTORNEYS OF RECORD GORDON & REES, KEVIN ALEXANDER AND J. L. SEAN SLATTERY, WHO STIPULATE TO VACATE THE CURRENT TRIAL DATE AND TO CONTINUE TRIAL IN THE WITHIN ACTION; AND WHICH STIPULATION PROVIDES:

BACKGROUND:

1. Plaintiffs Billingsleys, the owners of certain real property located in the County of Tulare, State of California more particularly referred to by Tulare County Tax Assessors' Numbers 338-070-006, 338-260-016, 338-070-005 and 338-070-006, being a portion of Section 32, Township 26 South, Range 26 East MDB&M.
2. The above referred to real property is devoted to agricultural purposes and specifically three separate almond orchards.
3. The orchards are owned by Plaintiff California Agri Sprayers, Inc., a California corporation. Plaintiffs Billingsleys are the owners of 100 percent of the shares of stock in California Agri-Sprayers, Inc.
4. Only one of the three orchards owned by the Plaintiffs is the subject of the Plaintiffs' action. For illustrative purposes and information only, attached hereto and made a part hereof is a Tulare County Assessors' Parcel Map showing those parcels owned and the one parcel which is the subject of the within action, denoted as "subject parcel", Exhibit 1.

5. During the pendency of this action, Plaintiffs' counsel underwent abdominal surgeries in February, March, June and November of 2004. The parties conducted discovery while

accommodating counsel's medical needs.

6. The parties have exchanged Expert Witness Disclosures and have commenced Expert Witness Discovery and Depositions.

7. Recently, however, factual developments regarding the subject orchard have occurred that may potentially affect the entire scope of this litigation.

8. Counsel and experts for both parties are currently attempting to determine how, if at all, the scope of this litigation will change as a result of the aforementioned factual developments.

9. Plaintiffs and Defendant believe that it is necessary to vacate the current trial date in order to conduct testing and further discovery as to the causes of the recent developments concerning the subject orchard and how, if at all, the scope of this litigation will change.

10. Plaintiffs and Defendant wish to avoid a multiplicity of actions; avoid the necessity of prosecuting and defending a separate action involving the death of the new almond trees; to avoid the time, cost and expenses in prosecuting and defending a new and separate action; to avoid potentially inconsistent results which could occur as a result of litigating two separate actions; and to make appropriate and economic use of the Court's time and resources.

STIPULATION

WHEREFORE, based upon the above facts the parties hereto stipulate to vacate the current trial date of June 28, 2005 and further stipulate to reset a trial date according to the Court's custom and practice.

So stipulated.

Date: APRIL 26, 2005

Gerald M. Leverett, Esq. /S/
Wayne Billingsley, Wava Billingsley,
By Gerald M. Leverett, Esq.

Date: APRIL 26, 2005

Gerald M. Leverett, Esq. /S/
California Agri Sprayers
By Gerald M. Leverett, Esq.

So Stipulated.

Date: APRIL 26, 2005

J. L. Sean Slattery, Esq. /S/
Loveland Industries, Inc. d.b.a.
UAP West
By J.. L. Sean Slattery, Esq.

ORDER

The Court, having considered the Joint Stipulation of the parties hereto to vacate the current trial date, and GOOD CAUSE APPEARING, the Court hereby approves the Stipulation. The trial date of June 28, 2005 in the above referenced matter is hereby vacated, to be reset by the Court and parties.

IT IS ORDERED.

DATE: _____April 27, 2005

____/s/ ROBERT E. COYLE____
ROBERT E. COYLE
U.S DISTRICT JUDGE